

AMENDED IN SENATE JULY 3, 2012

AMENDED IN SENATE JUNE 20, 2012

AMENDED IN SENATE JUNE 14, 2012

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1120

Introduced by Senator Berryhill

February 17, 2012

An act to ~~amend Section 5821 of the Streets and Highways Code~~ *add Section 53757 to the Government Code*, relating to local government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1120, as amended, Berryhill. ~~Maintenance—districts: property-related service fees.~~ *Property-related services.*

The California Constitution, with the exception of fees or charges for sewer, water, and refuse collection services, conditions the imposition or increase of a property-related fee or charge upon approval by either a majority vote of the owners of the properties subject to the fee or charge or, at the option of the agency imposing the fee or charge, by a $\frac{2}{3}$ vote of the voters residing in the area affected by the fee or charge.

~~Existing law authorizes a city or county to form a maintenance district, and to levy an assessment for the support of that district. Existing law authorizes a city or county that formed a maintenance district to increase a fee or charge imposed by the district if it complies with the procedures set out in the California Constitution, including, if applicable, voter approval of that increased fee or charge. Existing law defines, for purposes of these provisions, any reference to the board of supervisors of a county to include a city council.~~

This bill would provide that ~~the board of supervisors that is acting as the board of directors for a maintenance district~~ *an agency* shall not be obligated to provide subsidies to a district to cure any deficiencies in funding of *property-related* services provided by the district in the agency's territory, if specified requirements are met. This bill would provide that this prohibition would not apply if the ~~board of supervisors~~ *agency's governing board* had agreed to provide these subsidies to the district at the time of the formation of the district *subsidize the services before the completion of a majority protest proceeding or election, as specified.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 5821 of the Streets and Highways Code~~
2 ~~is amended to read:~~
3 ~~5821. (a) The board of supervisors may, in its resolution~~
4 ~~declaring its intention to order work done or improvements made~~
5 ~~or by separate resolution, declare its intention to order that the~~
6 ~~expenses of maintaining and operating any or all of those~~
7 ~~improvements or any or all other improvements that are permitted~~
8 ~~to be constructed in that resolution, including the cost of necessary~~
9 ~~repairs, replacements, fuel, power, electrical current, care,~~
10 ~~supervision, and any and all other items necessary for the proper~~
11 ~~maintenance and operation of those improvements, shall be~~
12 ~~assessed, either partly or wholly, upon the real property or upon~~
13 ~~the land only lying within the district to be benefited by and to be~~
14 ~~assessed to pay the cost of the construction of that improvement,~~
15 ~~or upon that district as the board of supervisors shall determine~~
16 ~~will be benefited by the maintenance and operation of the~~
17 ~~improvements proposed to be maintained; the amounts so assessed~~
18 ~~to be levied and collected in the same manner and by the same~~
19 ~~officers as taxes for county purposes are levied and collected.~~
20 ~~(b) (1) The board of supervisors that is acting as the board of~~
21 ~~directors for the district shall not be obligated to provide subsidies~~
22 ~~to the district to cure any deficiencies in funding of the services~~

1 provided in the district, including for water, sewer, and refuse
2 collection, if any of the following apply:

3 (A) The board of supervisors proposes to impose, extend, or
4 increase property-related fees or charges for the services, the board
5 fully complies with Section 6 of Article XIII D of the California
6 Constitution, and a majority of parcel owners submit a written
7 protest against the proposed imposition, extension, or increase,
8 pursuant to subdivision (a) of Section 6 of Article XIII D of the
9 California Constitution.

10 (B) The board of supervisors proposes to impose, extend, or
11 increase property-related fees or charges for the services, the board
12 fully complies with Section 6 of Article XIII D of the California
13 Constitution, and the proposed imposition, extension, or increase
14 fails to get voter approval pursuant to subdivision (c) of Section
15 6 of Article XIII D of the California Constitution.

16 (C) Property-related fees or charges for the services that comply
17 with Section 6 of Article XIII D of the California Constitution are reduced
18 or repealed by the voters via an initiative pursuant to Section 3 of
19 Article XIII C of the California Constitution.

20 (2) Paragraph (1) shall not apply if the board of supervisors had
21 undertaken the obligation to subsidize the district at the time of
22 the initial creation of the district as provided for in this chapter.

23 (3) For purposes of this subdivision, “full compliance with
24 Section 6 of Article XIII D of the California Constitution” means
25 all of the following:

26 (A) Revenues derived from the proposed fee or charge do not
27 exceed the funds required to provide the property-related service.

28 (B) Revenues derived from the fee or charge are not used for
29 any purpose other than that for which the fee or charge was
30 imposed.

31 (C) The amount of the fee or charge imposed on any parcel or
32 person as an incident of property ownership does not exceed the
33 proportional cost of the service attributable to the parcel or person.

34 (D) The fee or charge is not imposed for a service unless and
35 until that service is actually used by, or immediately available to,
36 the property owner in question.

37 (E) The fee or charge is not imposed for general government
38 services if the service is available to the public at large in
39 substantially the same manner it is to property owners.

~~(F) The public entity has identified all parcels upon which the fee or charge is proposed and calculated the amount of the fee or charge to be imposed upon each identified parcel.~~

~~(G) The public entity has provided a written notice by mail of the proposed fee or charge to the record owner of each identified parcel, in conformance with subdivision (e) of Section 6 of Article XIII D of the California Constitution, and provided for all required hearings.~~

SECTION 1. Section 53757 is added to the Government Code, to read:

53757. (a) An agency shall not be obligated to provide subsidies to cure any deficiencies in funding of property-related services provided in the agency's territory, including for water, sewer, and refuse collection, if any of the following apply:

(1) The agency's governing board proposes to impose, extend, or increase property-related fees or charges for the services, the board fully complies with Section 6 of Article XIII D of the California Constitution, and a majority of parcel owners submit a written protest against the proposed imposition, extension, or increase, pursuant to subdivision (a) of Section 6 of Article XIII D of the California Constitution.

(2) The agency's governing board proposes to impose, extend, or increase property-related fees or charges for the services, the board fully complies with Section 6 of Article XIII D of the California Constitution, and the proposed imposition, extension, or increase fails to get voter approval pursuant to subdivision (c) of Section 6 of Article XIII D of the California Constitution.

(3) Property-related fees or charges for the services that comply with Section 6 of XIII D of the California Constitution are reduced or repealed by the voters via an initiative pursuant to Section 3 of Article XIII C of the California Constitution.

(b) Subdivision (a) shall not apply if the agency's governing board had undertaken the obligation to subsidize the services before the completion of a majority protest proceeding or election pursuant to paragraph (1), (2), or (3) of subdivision (a).

(c) For purposes of this section, "full compliance with subdivision (b) of Section 6 of Article XIII D of the California Constitution" means all of the following:

(1) Revenues derived from the proposed fee or charge do not exceed the funds required to provide the property-related service.

1 (2) *Revenues derived from the fee or charge are not used for*
2 *any purpose other than that for which the fee or charge was*
3 *imposed.*

4 (3) *The amount of the fee or charge imposed on any parcel or*
5 *person as an incident of property ownership does not exceed the*
6 *proportional cost of the service attributable to the parcel or person.*

7 (4) *The fee or charge is not imposed for a service unless and*
8 *until that service is actually used by, or immediately available to,*
9 *the property owner in question.*

10 (5) *The fee or charge is not imposed for general government*
11 *services if the service is available to the public at large in*
12 *substantially the same manner it is to property owners.*

13 (6) *The public entity has identified all parcels upon which the*
14 *fee or charge is proposed and calculated the amount of the fee or*
15 *charge to be imposed upon each identified parcel.*

16 (7) *The public entity has provided a written notice by mail of*
17 *the proposed fee or charge to the record owner of each identified*
18 *parcel, in conformance with subdivision (c) of Section 6 of Article*
19 *XIII D of the California Constitution, and provided for all required*
20 *hearings.*

21 SEC. 2. This act is an urgency statute necessary for the
22 immediate preservation of the public peace, health, or safety within
23 the meaning of Article IV of the Constitution and shall go into
24 immediate effect. The facts constituting the necessity are:

25 In order to ensure the continued supply of reliable drinking water
26 and to prevent the cessation of services relating to water, sewage,
27 and garbage, it is necessary that this act take effect immediately.